

IT IS ORDERED

Date Entered on Docket: May 9, 2022



The Honorable David T. Thuma  
United States Bankruptcy Judge

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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

In re:

PHILLIP PRICE MADRON,

Debtor.

Case No. 22-10099-t7  
Chapter 7

**STIPULATED ORDER ON CREDITOR MOMENTUM CAPITAL FUNDING, LLC'S  
MOTION FOR RELIEF FROM THE AUTOMATIC STAY AND FOR ABANDONMENT  
OF PROPERTY**

THIS MATTER came before the Court on *Creditor Momentum Capital Funding, LLC's Motion for Relief from the Automatic Stay and for Abandonment of Property*, filed February 16, 2022 (Doc. No. 20) (the “**Motion**”), the *Response in Opposition to Creditor Momentum Capital Funding, LLC's Motion for Relief from the Automatic Stay and for Abandonment of Property*, filed on March 9, 2022 (Doc. No. 31) (the “**Debtor's Objection**”), and the *Trustee's Objection to Motion for Relief from Stay*, filed March 17, 2022 (Doc. No. 33) (the “**Trustee's Objection**”), and the stipulation of the parties hereto as evidenced by the signatures of undersigned counsel. THE COURT, having reviewed and considered the record and the Debtor's Objection and the Trustee's Objection, hereby FINDS:

A. On February 2, 2022 (the “**Petition Date**”), Phillip Price Madron (the “**Debtor**”) commenced the above-captioned case by filing a voluntary petition for relief under chapter 7 of the Bankruptcy Code. On February 7, 2022, Clarke C. Coll resigned as the Chapter 7 Trustee and Yvette J. Gonzales was appointed successor Trustee (the “**Trustee**”) for this case and continues to serve in that capacity;

B. On February 16, 2022, Momentum Capital Funding, LLC (“**Momentum**”) filed the Motion, requesting relief from the automatic stay with respect to certain real property involved in a related foreclosure action and as to twenty-one (21) motor vehicles (the “**Vehicles**”);

C. On February 23, 2022, Momentum served and filed a notice of the filing of the Motion (the “**Notice**”), pursuant to Bankruptcy Rules 9019 and 2002, to all creditors and other parties in interest as shown on the limited mailing matrix maintained by the Court, specifying an objection period of twenty-one (21) days from the date of the mailing, plus three (3) days based upon service by mail, for a total of twenty four (24) days, to object to the Motion;

D. On February 23, 2022, Momentum filed the Notice with the Court (Doc. No. 24);

E. The Notice was appropriate in the particular circumstances;

F. The objection deadline, including three (3) days added under Bankruptcy Rule 9006(f), expired on or before March 21, 2022;

G. Other than the Debtor’s Objection and the Trustee’s Objection, no objections to the relief requested in the Motion have been filed, timely or otherwise;

H. This stipulated order is intended to resolve the relief requested in the Motion with respect to the Vehicles. The issues in the Motion relating to the real property and foreclosure action were resolved pursuant to the Court’s prior Order entered on April 20, 2022 (Doc. No. 63);

I. The Trustee's right to petition the Court to request to surcharge Momentum under 11 U.S.C. 506(c) for the costs of preserving and disposing of the Vehicles, to the extent Momentum receives a benefit therefrom, including the costs of securing the Vehicles, is reserved; and

J. No just reason exists to delay entry of this order;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. The requests for relief set forth in the Motion pertaining to the Vehicles are denied.

2. On or before May 11, 2022, the Trustee will file an application to employ one or more professionals to liquidate the Vehicles.

3. The Trustee will thereafter take prompt action to secure and liquidate the Vehicles.

4. The net proceeds of the Vehicles, after costs of sale, shall be deposited in the trust account of Askew & White, LLC, pending further order of this court resolving the liens thereon claimed by Momentum.

###END OF ORDER###

Submitted by:

ASKEW & WHITE, LLC

By: /s/ submitted electronically

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Approved by:

MCWHORTER, COBB & JOHNSON, LLC

By: s/ approved by e-mail on 4/28/2022

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